IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MRS. JUSTICE K.HEMA

TUESDAY, THE 23RD OCTOBER 2007 / 1ST KARTHIKA 1929

MFA.No. 287 of 2002()

WCC.234/1996 OF COMMISSIOENR FOR WORKMEN'S COMPENSATION, KOZHIKODE
.....

APPELLANT: APPLICANT

ALANGADAN SOMASUNDHARAN,
S/O.NARAYANAN, PARALI P.O.,
EDAKKARA, MALAPPURAM DISTRICT.

BY ADV. SRI.BABU S. NAIR

RESPONDENTS: OPPOSITE PARTIES
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1. K.KUNHI MOIDEEN,
PULIYETHINGAL HOUSE, NADUVANNUR P.O.,
KOZHIKODE.

2. NEW INDIA INSURANCE COMPANY LTD.,
DOOR NO.19/253, MUBHARAK BUILDINGS,
EDODI, VADAKARA.

THIS MISC. FIRST APPEAL HAVING COME UP FOR ADMISSION ON 23/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY & K. HEMA, JJ.

M.F.A.No. 287 of 2002

Dated this the 23rd day of October , 2007.

JUDGMENT

Koshy, J:

The appellant met with an accident during the course of employment and he claimed compensation contending that he was receiving Rs.2000/- as monthly salary and he has suffered 8% disability. The Commissioner for Workmen's Compensation on evidence and facts found the accident occurred during the course of employment, and workman is entitled to Compensation. Considering the medical certificate produced, 8% loss of earning capacity was assessed by the Commissioner. The only ground stated is that Rs.1000/- was taken as the monthly wage. The accident was on 16.2.1995. The Workmen's Compensation Act was amended by Act 30 of 1995 with effect from 15.9.1995. The accident occurred prior to the amendment. In K.S.E.B. v. Valsala (AIR 1999 SC 350), the Apex Court held that compensation has to be calculated on the basis of the provisions of the Act existing on the date of accident. On the date of accident, the maximum salary that can be taken by t he Commissioner is only Rs.1000/-. Hence, the calculation made by the Commissioner is correct. There is no substantial question of law.

Appeal is dismissed.

J.B.KOSHY, JUDGE.

K. HEMA, JUDGE.

Krs.

J.B. KOSHY & K. HEMA, JJ.

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